

ORDINANCE NO. 11-06

ORDINANCE GRANTING A VARIANCE PERMIT TO ALLOW FOUR OCCUPATIONAL LICENSES, WHERE NO MORE THAN TWO ARE PERMITTED, CONTRA TO HIALEAH CODE §98-778(2), ON PROPERTY ZONED RO (RESIDENTIAL OFFICE DISTRICT). **PROPERTY LOCATED AT 4930 PALM AVENUE, HIALEAH, FLORIDA.** REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Board at its meeting of January 26, 2011, recommended approval of this ordinance;

WHEREAS, Petitioner proffers to (1) correct the building code violations in the parking area, specifically those concerning the layout, accessibility spaces, and lighting, and (2) improve the landscaping and build a dumpster enclosure; and

WHEREAS, in order to avoid a parking shortage and traffic congestion on the adjacent rights of way, Petitioner proffers a declaration of restrictive covenants to segregate the hours of operation of the occupations licensed to operate at the Property, to which the City accepts.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

Section 1: The below-described property is hereby granted a variance permit to allow four occupational licenses, where no more than two are permitted, contra to Hialeah Code §98-778(2), which provides in pertinent part: “No more than two occupational licenses shall be issued for each address...”, on property zoned RO

(Residential Office District). The property is located at 4930 Palm Avenue, Hialeah, Miami-Dade County, Florida and legally described as follows:

TRACT 13-B LESS THE NORTH 100 FEET, AND LESS
RIGHT OF WAY, IN BLOCK 13, OF REVISED PLAT
OF U-LE-LAH, ACCORDING TO THE PLAT
THEREOF, AS RECORDED IN PLAT BOOK 34, PAGE
43, OF THE PUBLIC RECORDS OF MIAMI-DADE
COUNTY, FLORIDA.

Section 2: Repeal of Ordinances in Conflict.

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 3: Penalties.

Every person violating any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be assessed by a civil penalty not to exceed \$500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the city may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

Section 4: Severability Clause.

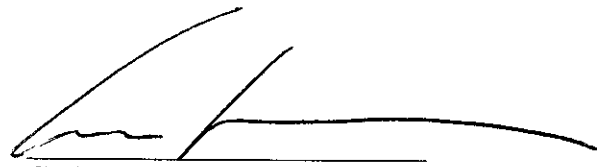
If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

Section 5: Effective Date.

This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.


PASSED and ADOPTED this 22nd day of February, 2011.

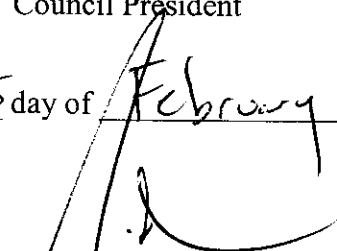
THE FOREGOING ORDINANCE
OF THE CITY OF HIALEAH WAS
PUBLISHED IN ACCORDANCE
WITH THE PROVISIONS OF
FLORIDA STATUTE 166.041
PRIOR TO FINAL READING.


Carlos Hernandez
Council President


Attest:

Approved on this 25 day of February, 2011.


David Concepcion, Acting City Clerk


Mayor Julio Robaina

Approved as to form and legal sufficiency:


William M. Grodnick, City Attorney

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Ordinance was adopted by a unanimous vote with Councilmembers, Caragol, Casals-Muñoz, Cue-Fuente, Garcia-Martinez, Gonzalez, Hernandez, and Yedra voting "Yes."



CFN 2011R0163335
OR Bk 27616 Pgs 1019 - 1023; (5pgs)
RECORDED 03/14/2011 11:56:00
HARVEY RUVIN, CLERK OF COURT
MIAMI-DADE COUNTY, FLORIDA

Prepared by and return to:
City of Hialeah
Planning Division
501 Palm Avenue, Second Floor
Hialeah, FL 33010

**DECLARATION OF RESTRICTIVE COVENANTS
(Corporate)**

(I) (WE), Dr. Eugene A. Fox/Rashaw Holding LLC & Robert M. Kramer

Being the tenant(s) of lands described herein: Tract 13-B less the North 100 feet, less right-of-way in Block 13 of Revised Plat of U-LE-LAH, according to the plat thereof, as recorded in Plat Book 34, at Page 43, of the Public Records of Miami-Dade County, Florida, and the East 6 feet of the alley lying West and adjacent to the aforesaid property.

Property located at 4930 Palm Avenue, Hialeah, Florida

The street property address is 4930 Palm Avenue, Hialeah, Florida

The folio number is, 04-2131-031-1180

make the following Declaration of Restrictive covenants covering and running with the above property, specifying that this restriction during its lifetime shall be for the benefit of and a limitation upon all present and future owners of the real property described above, in favor of and enforceable by the City of Hialeah, Florida.

In connection therewith, the undersigned covenants, represents and agrees as follows:

1. Dr. Eugene A. Fox has proffered to limit his practice from Monday through Friday, 7:00 A.M. to 1:30 P.M. in order to accommodate his two existing occupational licenses for the Podiatry Practice. The additional two licenses will be for an Esthetician Practice that will operate Monday through Friday, 1:30 P.M. to 6:00 P.M. The two licenses per shift limitation should remain in effect even if the current practices cease. Additionally, the applicant has proffered to correct the parking layout, provide handicapped parking spaces, landscaping, lighting, a dumpster enclosure and any other improvements required by the City of Hialeah Code of Ordinances and comply with the requirements of the Residential Office District Regulations, Section 98-785 Improvement plan...A building permit must be issued for the development of the property conforming to the improvement plan within one year from the effective date...Failure of the property owner to obtain a building permit within one year from the effective date of the ordinance approving the site plan or failure to complete construction within 18 months of the effective date of approval shall cause the city to repeal and rescind the ordinance granting said approval...
2. This covenant is intended and shall constitute a restrictive covenant concerning the use, enjoyment, and title to the above-described property and shall constitute a covenant running with the land and may be recorded in the Public Records of Miami-Dade County, Florida. This covenant shall remain in full force and effect and shall be binding upon the undersigned, its (their) heirs, successors and assigns until such time as the same is modified, amended or released and may only be modified, amended or released by a written instrument executed by the then owner having fee simple title to the property affected or to be affected by such modification, amendment, or release; provided, however, the same is also approved by the City Council and the Mayor of the City of Hialeah, or its successors, by resolution, upon advertised notice, or by ordinance if the covenant is adopted by ordinance or as otherwise provided in Hialeah Charter.
3. Where construction has occurred on said property described herein, pursuant to a permit issued by the City of Hialeah, and inspection made and approval of occupancy given by the City, the same shall create a conclusive presumption that the improvements thus constructed comply with the intent and spirit of the restrictions referenced herein and this Declaration of Restrictive Covenants shall not be construed as clouding title of any of said property on which such development has occurred.

Ord.
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DECLARATION OF RESTRICTIVE COVENANTS
(Corporate)

same shall create a conclusive presumption that the improvements thus constructed comply with the intent and spirit of the restrictions referenced herein and this Declaration of Restrictive Covenants shall not be construed as clouding title of any of said property on which such development has occurred.

IN WITNESS WHEREOF, We have hereunto set our hands and seals at Miami-Dade County, Florida, this 14th day of February, 2011.

Attest: [Signature]
Secretary

EUGENE Fox
Typed/Printed Name

(Corporate Seal)

Rashaw Holdings, LLC, a Florida
limited liability company

By: [Signature]
Eugene A. Fox, Sole Managing
Member

Signed, sealed and delivered in the presence of:

[Signature]
Witness
Typed/Printed Name: Latera Volsant

[Signature]
Witness
Typed/Printed Name: Grim Kohn

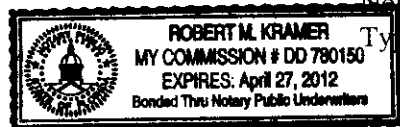
[Signature]
Eugene A. Fox, individually

The foregoing instrument was acknowledged before me on this 14th day of February, 2011, by Eugene A. Fox, individually and as sole managing member, and Eugene A. Fox, as Secretary, of Rashaw Holdings, LLC, a Florida limited liability corporation. They are personally known to me ~~or have produced the following~~ as identification and did ~~(did not)~~ take an oath and attest to the truth and accuracy of the representations contained herein.

This document was prepared by the City of Hialeah, Florida

[Signature]
Notary Public
Typed/Printed Name: ROBERT M. KRAMER

Commission No.:



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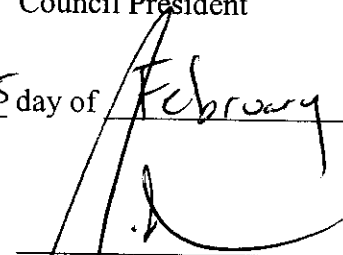
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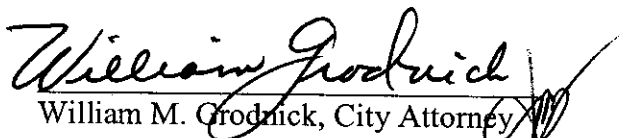
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